HON'BLE SRI JUSTICE K.C. BHANU

W.P.NO.16370 OF 2003

DATED: 25.7.2005

Between:

B. Ramakrishna Reddy

… Petitioner

and

The Managing Director, A.P. State

Cooperative Bank, Hyderabad.

… Respondent

HON'BLE SRI JUSTICE K.C. BHANU

W.P.NO.16370 OF 2003

ORDER:

This writ petition has been filed for a writ of Mandamus to quash the charge memo of the respondent in Ref.No.CDR/F.159/D/4038 dated 9.1.2003 issued against the Regulation 28 (C) of the Common Cadre Regulations (for short 'the Regulations), as unfair and illegal.

The brief facts of the case are that the petitioner worked as General Manager (FAC) DCC Bank, Kurnool, from 15.11.1997 to 5.11.2001 and during his tenure, it is alleged that many irregularities have taken place in sanction of loans, transfer of employees, allowing Assistant Managers to hold full charge of the branches etc., and accordingly, charges were framed against him vide charge memo dated 9.1.2003 issued by the respondent herein, to submit his explanation to the charges framed against him. It is stated that the petitioner submitted letter dated 21.2.2003 to the respondent stating that there is no report of omissions and commissions against him to the cadre authority and requested to communicate the same, if any. The respondent sent a reply on 22.3.2003 enclosing the report of Intelligence department dated 23.10.2001 and a petition from Sri K. Anand and others dated 17.6.2002. It is further his case that he made a representation dated 27.3.2003 to supply a copy of the enquiry report of Ex-Zonal Managers and the report submitted by the Government to enable him to submit his explanation, to which the respondent, by letter dated 8.4.2003, stated that he had already communicated necessary information in this regard. The petitioner again submitted his reply on 2.5.2003, but the respondent did not consider his reply and appointed enquiry officer to conduct a domestic enquiry by proceedings dated 18.7.2003, which is contrary to Regulation 28 (C) of the Regulations. Aggrieved thereby, the petitioner is before this court by way of this writ petition.

Learned counsel for the petitioner contended that the petitioner has retired from service on 30.6.2002 after attaining the age of superannuation. The charge-

sheet has been issued by the Member Secretary on 9.1.2003, calling upon the petitioner to submit his explanation within 15 days from the date of receipt of the charge-memo and that he has no authority to issue such proceedings, which were without jurisdiction.

On the other hand, learned Standing Counsel for the respondent-Bank contended that the Member Secretary is the competent authority to impose penalty, including major penalty, as per Regulation 36 of the Regulations and that at the time of retirement, the petitioner gave an undertaking that he will be subjected himself for any disciplinary action that may be initiated during one year period, subsequent to his retirement and that the order impugned does not suffer from any infirmities.

There cannot be any dispute that after retirement, the relationship of Master and Employee will come to an end. No action, much less departmental proceedings, can be initiated against an employee who has retired from service, unless otherwise a rule provides for, in that connection. The Common Cadre Regulations govern the service conditions of the writ petitioner. The Regulation 28 (C) of the Regulations reads as under:

> "**Action against retired cadre officers:**
>
> Provided it shall be competent for the Cadre Authority to consider a report made to the Cadre Authority as to omissions and commissions of retired Cadre Officer with APCOB and DCCB. It shall be lawful for the Cadre Authority to proceed against a retired Cadre Officer for omissions and commissions with APCOB and DCCBs within one year from the date of retirement/resignation and to recover the losses and to proceed with criminal action against the alleged officer as per the provisions of A.P. Cooperative Societies Act, 1964. It shall be competent for Cadre Authority to insist and the duty of the cadre officer to submit an undertaking subjecting himself for any disciplinary action that may be initiated during one year period subsequent to his retirement."

It is clear from the above Regulation that the competent authority can initiate departmental proceedings even after retirement of the Cadre Officer, within one year from the date of retirement. As a matter of fact, the writ petitioner has also gave an undertaking subjecting himself for any disciplinary action that may be initiated during one year period, subsequent to his retirement. But, the question is as to who shall initiate those disciplinary proceedings. A plain reading of the above Regulation makes it clear that the Cadre Authority is competent to initiate departmental proceedings, but the Regulation does not define what is meant by 'Cadre Authority'.

Learned counsel for the petitioner placed reliance on the amended Regulation No.37, only to show that Member Secretary is not the Cadre Authority or Cadre Committee. On the other hand, learned Standing Counsel for the respondent has placed reliance on Regulation No.36, whereunder the Member Secretary can initiate enquiry and appoint an enquiry officer even in respect of major penalties. Since the petitioner has been retired from service, Regulation No. 28 (C) is only applicable to him and, therefore, the Cadre Authority is alone competent to proceed against a retired Cadre Officer for any omissions and commissions committed by him. Since the Member Secretary is defined under the relevant Regulations, he cannot be the Cadre Authority. The Member Secretary means the Managing Director of A.P. State Cooperative Bank, who shall function as Ex-Officio Member Secretary of the Cadre Committee. In view of the definition, by no stretch of imagination, it can be said that he is the Cadre Authority to initiate disciplinary proceedings against the retired employee. Therefore, the impugned proceedings dated 9.1.2003, which is admittedly issued by the Member Secretary, is without jurisdiction and hence it is liable to be set aside.

In the result, the writ petition is allowed by setting aside the impugned proceedings dated 9.1.2003 issued by the respondent. This order does not preclude the respondent to take appropriate action against the petitioner in accordance with

the provisions, as per law. No order as to costs.

25.7.2005

CVM